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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,384	09/10/2003	Malcolm Betts	PAT 2721-2	4129
26123	7590	02/05/2008	EXAMINER	
BORDEN LADNER GERVAIS LLP			PARK, JUNG H	
Anne Kinsman			ART UNIT	PAPER NUMBER
WORLD EXCHANGE PLAZA			2619	
100 QUEEN STREET SUITE 1100				
OTTAWA, ON K1P 1J9				
CANADA				
NOTIFICATION DATE	DELIVERY MODE			
02/05/2008	ELECTRONIC			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

[ipinfo@blgcanada.com](mailto:ipinfo@blgcanada.com)  
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[akinsman@blgcanada.com](mailto:akinsman@blgcanada.com)

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/658,384	BETTS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jung Park	2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 18 December 2007.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 2,5-10,12,15-20,24,28-40 and 44-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 24, 28-40, and 44-46 is/are allowed.
- 6) Claim(s) 2,5-10,12,15-20 and 24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5)  Notice of Informal Patent Application
- 6)  Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Remark***

1. This communication is considered fully responsive to the Amendment mailed on 12/18/2007.
  - a. An objection to the drawing is withdrawn since it is being amended accordingly.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
3. Claims 2, 5-10, 12, and 15-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In claims 5 and 15, applicant claims "a data packet implemented on a computer readable storage medium" and "a data packet embedded in a signal", respectively. That is, claims data structures embedded in a signal which are nonstatutory subject matter. It is also noted that "computer programs" and "computer products" are not described in the specification.

***Claim Objections***

4. Claims 5, 7, 30 and 32 are objected to because of the following informalities:

In claims 5, 7, 30, and 32, the original dependency of the claims have been changed. Appropriate correction is required to avoid insufficient antecedent basis for this limitation in the claim.

***Allowable Subject Matter***

5. Claims 24, 28-40 & 44-46 are allowable.
6. Claims 2, 5-10, 12, and 15-20 would be allowable if rewritten to overcome the rejection(s) under 101 statutory.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jung Park whose telephone number is 571-272-8565. The examiner can normally be reached on Mon-Fri during 6:15-3:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Ogad can be reached on 571-272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JP  
Jung Park  
Patent Examiner

EDAN . ORGAD  
SUPERVISORY PATENT EXAMINER

